

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

HEALTH INSURANCE PLAN OF NEW YORK,)
on behalf of itself and all others similarly situated,)
Plaintiff,)
v.)
AVENTIS PHARMACEUTICALS, INC.,)
Defendant.)
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Civil Action No. 07-cv-6785 (HB)
Hon. Harold Baer, U.S.D.J.
ECF Case

DEFENDANT AVENTIS PHARMACEUTICAL INC.'S
MOTION TO DISMISS THE COMPLAINT
FOR LACK OF SUBJECT MATTER JURISDICTION
AND FAILURE TO STATE CLAIM

NOW INTO COURT, through its undersigned counsel, comes Defendant Aventis Pharmaceuticals, Inc., who pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) and for reasons more fully set forth in the accompanying Memorandum of Law, move for the dismissal of Plaintiff Health Insurance Plan of New York's Complaint for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

WHEREFORE, Aventis prays that this Honorable Court grant this motion to dismiss the complaint for lack of subject matter jurisdiction and failure to state a claim.

Dated: October 22, 2007

Respectfully submitted,

/s/ Rosanna K. McCalips

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Counsel for Aventis Pharmaceuticals, Inc.

CERTIFICATE OF SERVICE

I, Rosanna K. McCalips, certify that the foregoing Motion to Dismiss the Complaint for Lack of Subject Matter Jurisdiction and Failure to State a Claim was served on October 22, 2007, on the counsel listed below in the manner indicated below:

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<i>Via Federal Express</i>	

/s/ Rosanna K. McCalips

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PROPOSED ORDER

Upon consideration of Defendant Aventis Pharmaceuticals, Inc.'s Motion to Dismiss the Complaint for Lack of Subject Matter Jurisdiction and Failure to State a Claim, it is this ____ day of _____, 2007, hereby

ORDERED that Plaintiff Health Insurance Plan of New York's Complaint is DISMISSED with prejudice.

UNITED STATES DISTRICT JUDGE
